

STATUS OF CLAIMS

Claims 1 - 28 are pending. Claims 1 - 28 stand rejected by the Examiner, and Applicant traverses these rejections.

REMARKS

Reconsideration of the present Application is respectfully requested.

Claims 1-7, 10, 11, 14-17, 20-24, 26 and 27 have been rejected under 35 U.S.C. 102(b) as being anticipated by Marmelstein (U.S. Patent No. 5,187,788). Claims 8 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marmelstein (U.S. Patent No. 5,187,788) as applied to Claims 1 and 21, and in further view of Brender et al (U.S. Patent No. 5,339,422). Claims 12 and 13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marmelstein (U.S. Patent No. 5,187,788) as applied to Claim 1, and in further view of Lithicum et al (U.S. Patent No. 6,714,213). Claims 9, 18, 19 and 28 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marmelstein (U.S. Patent No. 5,187,788) as applied to Claims 1 and 21, and in further view of Zink et al (U.S. Patent No. 6,738, 964). Applicant respectfully traverses these rejections for at least the following reasons.

Claim Interpretations

Applicant respectfully submits that the Examiner has mischaracterized Claims 4 and 17. Regarding Claim 4, Examiner asserts the claim to be interpreted as “being directed to loading the machine control instructions contained in the libraries that are represented by the objects in the graphical representation of the system when the machine code is generated.” Applicant

respectfully submits Claim 4 should be interpreted as “The method of claim 1, wherein the generated code consists of computer instructions to load the code libraries represented by the objects.” Regarding Claim 17, Examiner asserts the claim to be interpreted as “being directed to the ability to monitor the creation of the machine code as the code is created for each object in the system which would visually indicate activity of active objects in the system, those “active objects” being those objects whose source code is being generated.” Applicant respectfully submits Claim 17 should be interpreted as “The method of claim 1, further consisting of the step of monitoring or tracing the path of data flow and execution of the generated code by visually indicating activity in active objects in the network.”

35 U.S.C. 102(b) Rejections

Claims 1-7, 10, 11, 14-17, 20-24, 26 and 27 stand rejected under 35 U.S.C. 102(b) as being anticipated by Marmelstein (U.S. Patent No. 5,187,788). Applicant respectfully traverses the rejection of Claims 39-42 and 49 for at least the following reasons.

35 U.S.C. 102(b) recites:

A person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

Consistently, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See, M.P.EP. §2131 citing Verdegall Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).*

The Examiner has rejected Claim 1, asserting that Marmelstein teaches “updating the network of objects and the connections in the network to accurately reflect any changes made to the generated machine control instructions or to the network of objects”. In this regard, Applicant respectfully submits Examiner has mischaracterized Marmelstein, and the reference fails to teach each of the limitations of independent Claim 1.

Claim 1 of Marmelstein discloses updating strictly within “the common database”. (column 33, lines 24-27) This common database is simply a collection of objects organized in such a way that a computer program can quickly select the desired pieces of data, or objects. This is further explained within the Specification of Marmelstein, where, during the process of selecting an APEX object, the position of the mouse cursor on the screen determines what object is selected. Once the position of the mouse cursor is known, ***a search of the common database is performed for the appropriate APEX object*** whose position matches the mouse cursor’s position. (column 10, lines 12-18).

In the present invention, a database of objects is also used, and is referred to throughout the Specification as either a “library of objects” or a “list” of objects representative of the objects database. As explained in the Specification, objects are selected from the objects database and connected to the network of objects when constructing the network of objects. (Page 7, last paragraph) Thus, it is the library or list of objects in the present invention, not the network, that is a similar feature to that of the common database of Marmelstein. Further, Marmelstein does not provide any description of a correlating feature to the network of objects recited in Claim 1. Therefore, the §102 requirement that all elements must be disclosed in the reference is not met.

More particularly, Applicant respectfully submits that, in the present invention, the updating occurs within ***the network of objects and the connections in the network***, as recited in Claim 1 of

the present application, and not merely within a database of objects as taught in Marmelstein. In other words, the network of objects of the present invention is distinct from the common database disclosed in Marmelstein, just as the network of objects is distinct from the library or list of objects in the present invention. Thus, there is a complete absence in Marmelstein of updating the network of objects and the connections in the network.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection of Claim 1, as Marmelstein fails to teach updating the network of objects and the connections in the network as recited in Claim 1. Further, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejections of Claims 2-7, 10, 11, 14-17 and 20, as each of these Claims ultimately depends from independent Claim 1.

The Examiner has also rejected Claim 21, asserting that Marmelstein teaches “a method for constructing a high-level object model from generated machine control instructions, the method comprising the steps of: reading in a sequence of machine control instructions for performing one or more functions”. In this regard, Applicant again respectfully submits Examiner has mischaracterized Marmelstein, and thus the reference fails to teach each of the limitations of independent Claim 21.

As cited by Examiner, Marmelstein discloses the selecting of objects from the database list at the start of operation. (Figure 13 and Column 10, lines 26-32) This has no relation to *reading in a sequence* of machine control instructions, as recited in Claim 21. It is inherent that for a sequence of machine control instructions to be read in, it must be preexisting, and thus provide the ability to take preexisting generated machine control instructions and decompose them into a network of objects that can be edited with the aforementioned editor of the present invention. (Page 13, second full paragraph) The reading in of a sequence of machine control instructions effectively provides a

model or template that can be modified in the editor or have new code generated from it, by searching the objects database for objects matching those of the model sequence originally read in. While Marmelstein does select objects with which to generate code, it does not *first* read in a model or template code to match with *later* selected objects.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection of Claim 21, as Marmelstein fails to teach reading in a sequence of machine control instructions as recited in Claim 21. Further, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejections of Claims 22-24, 26 and 27, as each of these Claims ultimately depends from independent Claim 21.

Rejections based on 35 U.S.C. § 103 (a)

Claims 8 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marmelstein (U.S. Patent No. 5,187,788) as applied to Claims 1 and 21, and in further view of Brender et al (U.S. Patent No. 5,339,422). Claims 12 and 13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marmelstein (U.S. Patent No. 5,187,788) as applied to Claim 1, and in further view of Lithicum et al (U.S. Patent No. 6,714,213). Claims 9, 18, 19 and 28 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Marmelstein (U.S. Patent No. 5,187,788) as applied to Claims 1 and 21, and in further view of Zink et al (U.S. Patent No. 6,738,964). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. 103(a) sets forth in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have

been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits the cited references, either separately or in combination, fail to teach or suggest at least each of the limitations of independent Claims 1 and 21. For at least the reasons set forth hereinabove, Marmelstein fails to teach each of the limitations of independent Claims 1 and 21. Brender teaches a cross-domain call jacketing system. Lithicum teaches a haptic interface for detecting and avoiding collisions between objects in a virtual space. Zink teaches a graphical development system for software or software/hardware hybrids with intelligent development components. Likewise, each of these references, either separately or in combination, fail to teach or suggest updating the network of objects and the connections in the network as recited in Claim 1, or reading in a sequence of machine control instructions as recited in Claim 21.

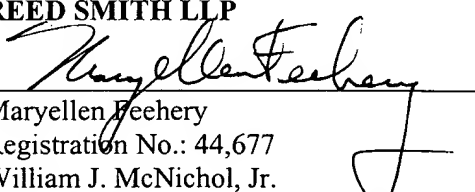
Furthermore, if the Examiner is relying on facts within Examiner's personal knowledge, Applicant invites the Examiner to provide an affidavit pursuant to 37 C.F.R. §1.104 (d)(2). Absent such evidence, each of the cited references, either separately or in combination, do not teach each

claim element of Claims 1 and 21, and do not suggest modifications to achieve Applicant's claimed invention. Thus, the Examiner's burden has not been met and the rejection should be withdrawn.

Accordingly, Applicant submits at least Claims 1 and 21 are patentably distinguishable over the prior art of record. Applicant further submits that Claims 2-20 and 22-28 are similarly distinguishable over the prior art of record, at least by virtue of their ultimate dependency from a patentably distinct base Claim 1 or 21.

CONCLUSION

Wherefore, Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at the number listed below.

<p>Express Mail Label No. <u>EV 481 403 785 US</u></p> <p>Date of Deposit <u>December 20, 2004</u></p> <p>I hereby certify that this paper, and the papers and/or fees referred to herein as transmitted, submitted or enclosed, are being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450</p> <p>Name: <u>Tanisha Reichstein</u></p> <p>Signature <u>Tanisha Reichstein</u></p>	<p>Respectfully submitted,</p> <p>REED SMITH LLP</p> <p></p> <p>Maryellen Feehery Registration No.: 44,677 William J. McNichol, Jr. Registration No. 31,179 2500 One Liberty Place 1650 Market Street Philadelphia, PA 19103-7301 (215) 241-7988 Attorneys for Applicant</p>
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